

10-17-05

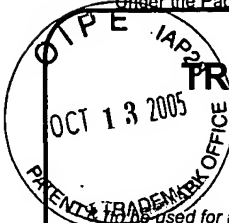
PTO/SB/21 (09-04)

OMB 0651-0031


Approved for use through 07/31/2006.

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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 <b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/712,820
	Filing Date	November 12, 2003
	First Named Inventor	Lane A. Bray
	Art Unit	3736
	Examiner Name	Unknown
Total Number of Pages in This Submission	Attorney Docket Number	IS6-001

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Petition / Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached (\$130.00 check) <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition to Make Special <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
Remarks Customer No. 021567.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Wells St. John P.S.		
Signature			
Printed name	Mark S. Matkin		
Date	10-13-05	Reg. No.	32,268

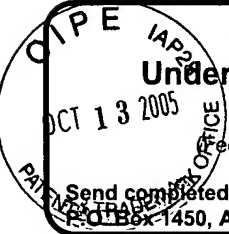
CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	FILED VIA U.S. EXPRESS MAIL		
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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 <p><b>PETITION FEE</b> Under 37 CFR 1.17(f), (g) &amp; (h) <b>TRANSMITTAL</b> (Fees are subject to annual revision)</p> <p>Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450</p>	<b>Application Number</b>	10/712,820
	<b>Filing Date</b>	November 12, 2003
	<b>First Named Inventor</b>	Lane A. Bray
	<b>Art Unit</b>	3736
	<b>Examiner Name</b>	Unknown
	<b>Attorney Docket Number</b>	IS6-001

Enclosed is a petition filed under 37 CFR 1.102 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(f), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees)

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 23-0925:

☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☒ Check in the amount of \$ 130.00 is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.

  
Signature

Mark S. Matkin  
Typed or printed name

10-13-05  
Date

32,268  
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EV633262473



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application Serial No. .... 10/712,820  
Filing Date ..... November 12, 2003  
Inventor ..... Lane A. Bray et al.  
Assignee ..... IsoRay, Inc.  
Group Art Unit ..... 3736  
Examiner ..... Unknown  
Attorney's Docket No. .... IS6-001  
Title: Methods of Fabricating Brachytherapy Implant Seeds, Methods of  
Fabricating Brachytherapy Implant Seed Cores, and Brachytherapy  
Implant Seeds

**PETITION UNDER 37 C.F.R. §1.102**  
**TO MAKE SPECIAL**

To: Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**VIA U.S. EXPRESS MAIL**

From: Mark S. Matkin  
WELLS, ST. JOHN, ROBERTS, GREGORY & MATKIN, P.S.  
601 West First Avenue, Suite 1300  
Spokane, WA 99201-3828  
(509) 624-4276; FAX: (509) 838-3424

**PETITION**

Applicant hereby petitions for the above-identified patent application to  
be accorded special status pursuant to 37 C.F.R. § 1.102.

**REASON FOR REQUEST/STATEMENT OF THE FACTS**

The invention of this patent application is related to the treatment of  
cancer. Under 37 C.F.R. §1.102 and according to MPEP §708.02(X), the U.S.

Patent and Trademark Office views the importance of patent applications

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relating to treatment of cancer as justification for advancement out of turn for examination. This application was filed on November 12, 2003, has yet to be examined, and is related to the treatment of cancer.

Specifically, the invention relates to methods of fabricating brachytherapy implant seeds, to methods of fabricating brachytherapy implant seed cores, and to brachytherapy implant seeds independent of method of fabrication. Brachytherapy is a form of radiation therapy (radiotherapy) used in the treatment of cancer. Radiotherapy is used to destroy malignant or unwanted tissue without causing excessive damage to the nearby healthy tissues. In brachythereapy, substances in the form of seeds, needles, wires or catheters are implanted permanently or temporarily directly into/near a cancerous tumor or other mass for destruction of such tumor or mass. Accordingly, since this application relates to and claims brachytherapy implant seeds, methods of fabricating such seeds and components of such seeds, advancement out of turn for examination is warranted.

#### **REMEDY REQUESTED**

Applicant respectfully requests that this patent application, U.S. Patent Application Serial No. 10/712,820, be "made special", thus enabling it to be advanced out of turn for examination.

**PETITION FEE**

The petition fee, as set forth in 37 C.F.R. § 1.17(h), is paid with the enclosed check in the sum of \$130.00.


**REQUEST FOR EXPEDITED DECISION**

Because of the time elapsed since the initial filing of this application, Applicant requests an expedited decision on this Petition To Make Special so that prosecution of the application may begin as soon as possible.

Respectfully submitted,

Dated: 10-13-05

By:

  
Mark S. Matkin  
Reg. No. 32,268